

2009 APR 15 PM 2: 53

PATENT  
Attorney Docket 042715-5024

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Tomoki Todo	)	
	)	
Application No. 10/594,964	)	Art Unit: 1648
	)	
Filed: September 29, 2006	)	Examiner: Ali Reza Salimi
	)	
For: Enhancer of anticancer activity in viral therapy and method of preventing or treating cancer	)	Confirmation No. 1879

**REQUEST FOR REFUND UNDER 37 C.F.R. § 1.26(a)**

This is a request for refund under 37 C.F.R. § 1.26(a) for fees charged to our Deposit Account No. 50-0310 in excess of that which was required. The above-referenced application is entitled to small entity status (as evidenced by the attached copy of Electronic Patent Application Fee Transmittal). However, the fees for the Request for Continued Examination filed on April 6, 2009 were charged at the large entity rate (\$810.00). Accordingly, Applicant requests a refund in the amount of \$405.00 for overpayment of fees at the large entity rate. Please credit our Deposit Account No. 50-0310 in the amount of \$405.00 and indicate that the credit is for our Attorney Docket No. 042715-5024.

Dated: April 10, 2009  
Morgan, Lewis & Bockius LLP  
Customer No. 09629  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
202-739-3000

Respectfully submitted  
Morgan, Lewis & Bockius LLP

/Robert Smyth/  
Robert Smyth  
Registration No. 50,801

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# Request for Continued Examination (RCE) Transmittal

Address to:  
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Alexandria, VA 22313-1450

Application Number	10/594,964
Filing Date	September 29, 2006
First Named Inventor	Tomoki Todo
Art Unit	1648
Examiner Name	Ali Reza Salimi
Attorney Docket Number	042715-5024

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

- Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
  - ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
    - ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
    - ☐ Other \_\_\_\_\_
  - ☒ Enclosed
    - ☒ Amendment/Reply
    - ☐ Affidavit(s)/ Declaration(s)
    - ☐ Information Disclosure Statement (IDS)
    - ☐ Other \_\_\_\_\_
- Miscellaneous**
  - ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
  - ☐ Other \_\_\_\_\_
- Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed. The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 50-0310.
  - ☒ RCE fee required under 37 CFR 1.17(e)
  - ☒ Extension of time fee (37 CFR 1.136 and 1.17)
  - ☐ Other \_\_\_\_\_
  - ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
  - ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	/Robert Smyth/	Date	April 6, 2009
Name (Print/Type)	Robert Smyth, Ph.D.	Registration No.	50,801

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature		Date	
Name (Print/Type)			

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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